**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Calling Party Pays Service Offering | ) | WT Docket No. 97-207 |
| In the Commercial Mobile Radio Services | ) | |

## COMMENTS OF AMERITECH

Ameritech submits these comments in response to the Commission's notice of proposed rulemaking in the above-captioned matter.[1] Ameritech requests that the Commission not make regulatory changes that inappropriately distort the marketplace in favor of wider deployment of Calling Party Pays ("CPP") services offered by Commercial Mobile Radio Services ("CMRS") providers.

## I. INTRODUCTION

In the NPRM, the Commission notes:

> Under CPP, a CMS provider makes available to its subscribers an offering whereby the party placing the call to a CMRS subscriber pays at least some of the charges associated with terminating the call, including most prominently charges for the CMRS airtime.[2]

The Commission has concluded that CPP could provide substantial benefits to the wireless industry:

> [W]e believe that the potential exists in the U.S. for the wider availability of CPP offerings to benefit the development of local competition and to provide an important

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[1] *In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services*, WT Docket No. 97-207, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 99-137 (rel. July 7, 1999) ("NPRM").

[2] *Id.* at ¶2.

new alternative to customers who have not previously used CMRS extensively.[3]

In that regard, the Commission articulated its goals in this proceeding, namely:

> to remove regulatory obstacles to the offering to consumers of Calling Party Pays services...
> to help ensure that the success or failure of CPP offerings to reach this potential reflects the commercial judgment of service providers and informed choices of consumers, both wireless and wireline, rather that unnecessary regulatory or legal obstacles and uncertainties.[4]

While these goals are laudable ones, the Commission must take care not to do more than simply remove regulatory obstacles. In other words, the Commission should do nothing that would distort the marketplace by providing regulatory incentives for the proliferation of CPP when the marketplace, acting on its own, would be hesitant to embrace the service offering. It must remembered that Congress articulated that the purpose of the Telecommunications Act of 1996 is "to provide for a pro-competitive, de-regulatory national policy framework..." for the national telecommunications environment.[5] Thus, Congress's intent is that de-regulation be the norm and that the market should be left to determine winners and losers.

It is important to recall what it is that brings CPP before the Commission in the first place. In that is the simple fact that, unlike the wireline industry, the wireless industry, generally speaking, has adopted a rate structure that involves assessing usage charges to wireless customers (i.e., for "airtime") for receiving calls. It did not have to do that. It could have developed a rate structure that utilized higher monthly flat fees or higher airtime charges for

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[3] *Id.* at ¶1.

[4] *Id.*

[5] Joint Explanatory Statement of the Committee of Conference.

originating calls to recover airtime costs associated with terminating calls. But it did not. Given this rate structure, the industry is experiencing a marketplace reaction – i.e., a significant number of wireless customers turn off their sets rather than risk receiving and paying for calls from people they may or may not know. Amazingly, a very small segment of wireless industry has responded to this marketplace input, not by changing its rate structure, but by asking the Commission for help. Specifically, this small group wants the Commission to help make its service more palatable to wireless customers by making it easier for wireless carriers to bill calling parties (read "wireline customers") those charges that the wireless carriers would otherwise have billed to their own customers.

Ameritech takes no issue with the representation that subscribship to wireless services would likely increase and that prepaid wireless services would be more attractive if airtime charges associated with terminating calls got billed to parties other than the wireless service subscriber in question.[6] Those are factors that may cause the marketplace to move in the direction of a wider proliferation of CPP. However, the Commission should be careful not to insert itself into this process in a way that would distort the workings of the market – i.e., in a way that would force the adoption of CPP or favor its introduction at a time or under circumstances different from those that would result from the normal operation of the marketplace.

It is with this in mind Ameritech comments on two specific issues raised by the Commission in the NPRM.

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[6] NPRM at ¶22.

## II. NUMBERING CODES SHOULD NOT BE DEDICATED TO THE PROVISION OF CPP.

In connection with providing calling parties with adequate notification that a call might involve CPP and to facilitate wireline subscribers' ability to block calls to CPP subscribers, the Commission has sought comment on the possibility of dedicating service codes or NXX codes to CPP subscribers.[7] The Commission should decline any such proposal for two specific reasons.

First, dedicating numbering codes to CPP subscribers would interfere with number portability requirements. If a wireline customer wanted to migrate her service to a wireless subscriber and to subscribe to CPP, the customer could not take her wireline number with her if CPP required the use of a dedicated service code or NXX. Similarly, a wireless CPP customer would not be able to take his number with him if he changed to a wireline provider and his wireless number was associated with a code dedicated to CPP.

Second, dedicating numbering codes to CPP would greatly interfere with numbering resource conservation measures. If service access codes or NXXs are dedicated to CPP, large quantities of numbers could be wasted – especially of CPP "flops" in the marketplace.

The Commission should, therefore, decline to interfere with number portability implementation and with numbering conservation efforts and refuse to dedicate numbering codes to the provision of CPP.

## III. THE COMMISSION SHOULD NOT RE-REGULATE LEC BILLING AND COLLECTION SERVICES FOR THE BENEFIT OF CPP.

In 1986, the Commission correctly detariffed third-party local exchange carrier ("LEC")

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[7] *Id.* at ¶¶45-48.

billing and collections services.[8] Since then, the Commission has consistently refused requests to reverse itself in that regard.[9] Even in the context of calls charged to LEC calling cards, the Commission refused to mandate that LECs provide billing and collection services on a common carrier basis. The Commission determined that, while billing and collection was a communications service subject to the Commission's Title I jurisdiction, it was not a Title II common carrier service. Instead, the Commission required LECs to provide call validation and screening services under Title II regulation and to make available billing, name and address ("BNA") information about their customers so that other carriers can do their own billing.[10]

There is no aspect of CPP services offered by CMRS providers that should cause the Commission to change its view of the nature of LEC billing and collection services. While use of LEC billing and collection services by CMRS providers to implement CPP might be "cost-effective", that fact alone does not justify re-categorizing these services as common carrier services subject to Title II regulation. The same was undoubtedly true for 900 service providers and IXCs. Nonetheless, in those cases the Commission wisely permitted the marketplace to operate; and there were no dire consequences. Similarly, in this case, CMRS providers who choose to offer CPP services can negotiate with wireline carriers for billing and collection

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[8] *In the Matter of Detariffing Billing and Collections Services,* CC Docket No. 85-88, Report and Order, FCC §6-31 (rel. January 29, 1986).

[9] See, e.g. *In the Matter of Audio Communications, Inc., Petition for Declaratory Ruling,* Memorandum, Opinion, and Order, DA 93-1470 (rel. December 20, 1993), wherein the Commission refused a 900 service provider's request to mandate carrier-provided billing and collections services, finding such services are not Title II common carrier services.

[10] See, *In the Matter of Policy and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards,* CC Docket No. 91-115, Report and Order, FCC 92-168, 7 FCC Rcd. 3528 (rel. May 8, 1992) and Second Report and Order, FCC 93-254, 8 FCC Rcd. 4478 (rel. June 9, 1993).

services or can obtain BNA information and perform their own billing and collection.

In sum, there is no aspect of CMRS provision of CPP-related services that would justify Commission in reversing its long standing determination that LEC-provided billing and collection services are not "common carrier" services subject to Title II regulation.

Respectfully submitted,

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